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10 **UNITED STATES DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 FIRST 100, LLC, a Nevada Limited Liability
13 Company,

14 Plaintiff,

15 vs.

16 WELLS FARGO BANK, N.A., a National
17 Association; MTC FINANCIAL INC. d/b/a
18 TRUSTEE CORPS, a Foreign corporation;
19 CITY OF LAS VEGAS, a Political Subdivision;
20 DOES I through X; and ROE
21 CORPORATIONS I through X, inclusive,

22 Defendants.

Case No.: 2:13-CV-00431-JCM-PAL

ORDER GRANTING MTC FINANCIAL
INC.'S MOTION TO DISMISS WITH
PREJUDICE THE PLAINTIFF'S
COMPLAINT, ORDER DENYING THE
PLAINTIFF'S MOTION FOR
SANCTIONS, AND ENTRY OF
JUDGMENT IN FAVOR OF WELLS
FARGO BANK, N.A.

23 Pending before the Court is Defendant, MTC Financial, Inc. d/b/a Trustee Corps' Motion
24 to Dismiss with Prejudice the Plaintiff's Complaint filed as Docket Number 9, wherein
25 Defendant, Wells Fargo Bank, N.A. filed a Joinder to the Motion as Docket Number 11, the
26 Plaintiff filed an Opposition to the Motion as Docket Number 13, Defendant, MTC Financial,
27 Inc. d/b/a Trustee Corps filed a Reply in Support of the Motion to Dismiss the Complaint as
28 Docket Number 23, and Wells Fargo Bank, N.A. filed a Joinder to the Reply as Docket Number
25.

The Plaintiff also filed a Counter-Motion for Summary Judgment as Docket Number 16
and Motion for Sanctions against Defendant, MTC Financial, Inc. d/b/a Trustee Corps as Docket

1 Number 15, wherein Wells Fargo Bank, N.A. filed an Opposition to the Motion for Summary
2 Judgment as Docket Number 30, Defendant, MTC Financial, Inc. d/b/a Trustee Corps filed a
3 Joinder to the Opposition to the Motion for Summary Judgment as Docket No. 31, Defendant,
4 MTC Financial, Inc. d/b/a Trustee Corps filed a Response to the Motion for Sanctions as Docket
5 Number 26, and the Plaintiff filed a Reply in Support of the Motion for Summary Judgment as
6 Docket No. 32.

7 The Court having reviewed the pleadings and papers on file, being fully advised in the
8 premises, and good cause appearing, hereby rules as follows:

9 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the Plaintiff's
10 Motion for Sanctions is DENIED.

11 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Defendant, MTC
12 Financial, Inc. d/b/a Trustee Corps' Motion to Dismiss with Prejudice is GRANTED.

13 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the injunctive
14 relief cause of action is dismissed with prejudice as to both Defendant, MTC Financial, Inc. d/b/a
15 Trustee Corps and Wells Fargo Bank, N.A. because injunctive relief is not a proper separate
16 cause of action and is merely a remedy.

17 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the Plaintiff's
18 quiet title cause of action is dismissed with prejudice as to Defendant, MTC Financial, Inc. d/b/a
19 Trustee Corps, because Defendant, MTC Financial, Inc. d/b/a Trustee Corps has no interest in
20 the Property and is not asserting an adverse interest in the Property.

21 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Judgment is
22 entered in favor of Wells Fargo Bank, N.A. because Wells Fargo's Lien was not extinguished by
23 the HOA Sale and the quiet title claim fails as a matter of law.

24 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Judgment is
25 entered in favor of Wells Fargo Bank, N.A. because the clear language of N.R.S. 116.3116 states
26 that an HOA's Lien is prior to all other liens and encumbrances secured by the property, except a
27 first security interest on the property recorded before the date on which the assessment became
28 delinquent.

1 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Judgment is
2 entered in favor of Wells Fargo Bank, N.A. because Wells Fargo's Deed of Trust was recorded
3 prior to the date upon which the assessments became delinquent; therefore, Wells Fargo's Lien
4 has priority over the HOA Lien.

5 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Judgment is
6 entered in favor of Wells Fargo Bank, N.A. because the Complaint fails to allege that the
7 assessment lien chronologically predates Wells Fargo's Deed of Trust.

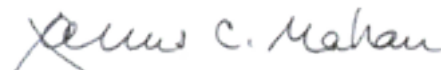
8 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Judgment is
9 entered in favor of Wells Fargo Bank, N.A. because N.R.S. 116.3116(2)(c) only creates a limited
10 super priority lien for nine months of HOA assessments leading up to a foreclosure proceeding
11 or the institution of an action to enforce the lien.

12 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Judgment is
13 entered in favor of Wells Fargo Bank, N.A. because N.R.S. 116.3116 does not extinguish a prior
14 recorded first position deed of trust.

15 **IT IS FURTHER ORDERED ADJUDGED AND DECREED** that this case is hereby
16 closed.

17 **IT IS FURTHER ORDERED ADJUDGED AND DECREED** that the Clerk of the
18 Court is instructed to enter a Judgment in favor of the Defendants pursuant to the herein
19 Order.

20 DATED August 5, 2013.

21
22 
UNITED STATES DISTRICT COURT JUDGE

23 RESPECTFULLY SUBMITTED BY:

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25
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